IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 26950 of 2007(G)

OS.429/1994 of PRINCIPAL SUB COURT,KOLLAM

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PETITIONER:

K.P.SREEKUMAR, S/O.PARAMESWARAN PILLAI,
SHANTHI BHAVAN, THURUTHIKARA MURI,
KANNUATHUR VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENT:

SANKARA PILLAI, S/O.KUNJUKRISHNA PILLAI,
FOREMAN, SREEDEVI VILASOM CHIT FUND,
PUTHIYAKAVU, KARUNAGAPALLY, RESIDING AT KOLADATHU
VEEDU, PUNNAKKULAM, AADINADU, KOLLAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.26950 of 2007

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Dated this the 11th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking a direction to the Principal Subordinate Judge, Kollam to consider Exts.P2 to P4 applications within a time frame and also to keep the execution proceedings in E.P.No.38 of 1999 in abeyance till such disposal. Writ Petitioner is the first defendant in the case. Ground on which the suit is instituted is on the basis of a chit transaction.

2. It is submitted that he was away in military service and had not received any notice and therefore, he had filed applications to condone the delay, to set aside the ex parte decree and to pass a stay and they are all pending before the Principal Subordinate Judge, Kollam. It is also submitted that the other defendants almost paid about Rs.58,000/- in execution of the decree. At this stage only a conditional order can be passed and therefore, the Writ Petition is disposed of as follows:

(1) Writ petitioner is directed to deposit an amount of Rs.30,000/- (Rupees thirty thousand only) in E.P.No.38 of 1999 in O.S.No.429 of 1994 within a period of one month from today and the Executing Court is directed not to proceed with the execution till Exts.P2, P3 and P4 applications are disposed of by the Principal Subordinate Judge, Kollam.

(2) The Principal Subordinate Judge, Kollam is directed to consider Exts.P2, P3 and P4 applications after hearing both sides and dispose it of in accordance with law within a time frame of six weeks from today.

(3) Till the disposal of the above applications, the execution proceedings should be kept in abeyance on deposit of the amount and it is made clear that the decree holder is not entitled to withdraw the amount till a final decision is taken on Exts.P2 to P4.

M.N.Krishnan,
Judge.

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